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Framework for Roles and Responsibilities: First Submission to the Commission on Planning and Development Reform in Ontario

Association of Municipalities of Ontario
March 1992

MISSION STATEMENT

AMO unites Ontario's municipalities.

We take pride in promoting, supporting and enhancing strong and effective municipal government.

We provide strategic leadership by:

- developing and effectively promoting responsive quality policy;
- informing and educating governments, the media and the public;
- marketing innovative and beneficial services.

Our elected representatives, municipal officials and association staff form a team which values and respects:

- diversity and local autonomy;
- fairness and equity;
- consultation;
- consensus;
- co-operation.

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EXECUTIVE SUMMARY

This is the first submission of the Association of Municipalities of Ontario to the Commission on Planning and Development Reform. The primary purpose of the report is to provide a framework of principles and recommendations for the review of the planning system, and more specifically respond to the first report of the Commission on planning goals.

Municipalities are primarily responsible and accountable for land use planning and therefore are major stakeholders in the planning of communities, more so than the Provincial Government. However, despite this stake in the outcome of planning decisions, municipalities increasingly have less control over final decisions as unelected bodies increasingly influence and overturn decisions of elected councils. The result of this has not necessarily been "good or better" planning. For this and other reasons, AMO agrees that there is a need to review the existing planning system and that municipalities as major stakeholders should be directly involved in this review.

AMO argues that the success of municipal involvement in reforming the planning system requires a commitment from the Province to respect municipalities as not just another interest group on planning issues but as a duly elected level of government. The current financial disentanglement process is put forward as an example of the commitment and respect between the two levels of government that AMO argues is necessary in this review.

AMO argues that the drafting of planning goals must be conducted against a framework or set of principles regarding a desired planning system. Secondly, a review of the planning system should include the examination of the provincial and municipal planning structures within which planning goals must operate. To some extent this latter issue calls for the mandate of the Commission to look beyond the *Planning Act* to include an examination of government planning structures and other relevant provincial legislation impacting on the operation of the planning system.

Principles: A D A P T

AMO recommends the following principles to serve as a framework in the review of the planning process and the establishment planning goals:

Accountability should be based on strengthening the democratic process by ensuring that planning decisions are made in an open political process.

Decision-making authority of municipalities should be increased for planning functions for which municipalities are accountable and have a demonstrated capability.

Appeal and review of municipal decisions should be limited to those issues which are defined as instituting an interest beyond the local municipality.

Public consultation should ensure that citizens have access to information, and the right to notification and hearing.

Timely decision-making should be a standard adopted at all levels of government to ensure that planning decisions are made without undue delay.

Commission's Mandate

AMO argues that the Commission must look beyond the *Planning Act* itself to include other relevant legislation. In particular, AMO recommends that the review of the planning system should involve the development of an integrated environmental assessment and planning process. AMO also makes recommendations for the examination of provincial and municipal planning structures which significantly influence the operation of the overall planning system. First, AMO submits that the Commission should consider issuing interim recommendations for some immediate "quick fix" changes which could be made to address some of the concerns about the planning process. Therefore, AMO recommends that the Commission consider issuing interim recommendations for immediate changes.

AMO recommends reforms to the central provincial bureaucracy to achieve better integration and coordination of provincial land use policies and improvements in the efficiency of the planning approvals process. The reform of provincial structures should also be extended to the sub-provincial level ("regional" offices) towards achieving the coordinated implementation of provincial land use policies in sub-areas of the Province. Examination of alternative intermunicipal planning structures is proposed to ensure that these planning structures have the capability to assume greater decision-making authority for some functions currently under provincial jurisdiction and to

address planning issues which transcend existing municipal political boundaries. The consideration of intermunicipal planning structures should also involve the rationalization of the division of planning responsibilities between municipal jurisdictions.

Planning Goals

AMO questions whether the planning goals proposed by the Commission actually represent a shared vision or direction. It is AMO's position that in their current form this statement of goals is "off track" since it does not focus on an overall vision for Ontario, but rather on the merits of specific goals. The planning goals confuse "ends" and "means", are narrow in scope, and too specific. Furthermore, AMO questions the expression of distinct goals for different categories of municipalities (e.g. rural/small centre vs. urban fringe).

As a general principle, AMO recommends that goals at the level of detail proposed by the Commission should not be in the *Planning Act*. AMO states that the appropriate expression of goals within the *Planning Act* is one that provides an overall framework that is broad in scope and has sufficient flexibility to address the changing economic, social and environmental context of Ontario and the varying circumstances of local communities. The appropriate legal context for the expression of provincial planning goals should be determined within the framework of principles proposed by the Association. AMO supports reinforcing existing mechanisms in the *Planning Act* for the expression of provincial interests. The following three part expression of planning goals is recommended:

- A purpose of planning statement in a new section 1 of the Act: The purpose of planning is to guide change in communities in a manner which fosters environmentally, economically, and socially healthy places to live.

- Amendments to the existing statement of provincial interest in planning under section 2 of the Act.

- Establishment of a comprehensive "umbrella" provincial policy statement under section 3 of the Act which elaborates on the provincial interests expressed in a modified section 2. The concept of provincial policy statements should be reviewed including their status in relation to the proposed "umbrella" policy statement.

1 INTRODUCTION

This is the first submission of the Association of Municipalities of Ontario to the Commission on Planning and Development Reform. AMO appreciates the opportunity to put forward its ideas and recommendations to the Commission and to comprehensively address issues of concern about the operation of the planning system. This first report has been structured to provide an introduction to the work of AMO, its expectations for this planning review, and more specifically to respond to the first report of the Commission on proposed planning goals.

First, AMO recognizes the need for a planning review and the responsibility and stake municipal governments have in the planning process. AMO has therefore established a Planning Task Force to proactively and constructively respond to the work of the Commission and to represent a strong municipal voice in the review of Ontario's planning and development process.

Municipalities are primarily responsible and accountable for land use planning and therefore are major stakeholders in the planning of communities, more so than the Provincial Government. However, despite this stake in the outcome of planning decisions, municipalities increasingly have less control over final decisions as unelected bodies increasingly influence and overturn decisions of elected councils. The result of this has not necessarily been "good or better" planning. It is therefore important that Ontario's municipalities be directly involved in the examination of options and the formulation of revisions to the existing planning system.

Establishment of the Commission

It is unfortunate that this and other recent provincial initiatives have cast a shadow on the general reputation of Ontario municipalities. For example, in establishing this Commission, the Provincial Government has stated that this is a broad province-wide inquiry into the validity of the municipal planning process and is a "necessary step in restoring public confidence in planning and development practices in Ontario."[1] In doing so, it has put into question the decision-making and accountability of all municipal governments in the Province. In a similar way, the draft legislation *Open*

Local Government has put forward proposed rules for conflict of interest, open meetings and disposal of land with the objective to restore public confidence in municipal governments, again putting into question the decision-making of all Ontario municipal governments.[2]

As a further example of the questioning of municipal authority, the recent actions of the Provincial Government as represented in *Bill 143, An Act Respecting the Management of Waste* is not a favourable sign to municipalities as we begin a review of the entire planning process. Bill 143 has set a disturbing precedent of the provincial level unilaterally dictating policy which municipalities must implement.[3] This involved the Ministerial assumption of waste management powers and the requirement that municipalities comply with and implement provincial policies and decisions. It raised many concerns about the Ministry of the Environment's right to unilaterally assume responsibility for an area which has traditionally, and legally, been governed by municipalities.

These examples or initiatives do not acknowledge the status of Ontario's municipal sector as an effective level of government. On an international basis, Ontario municipal government is held up as an example of good local government, free of both the political and administrative corruption that plagues some local governments elsewhere. Through CIDA and the Federation of Canadian Municipalities (FCM), the expertise of Ontario municipalities is actively sought to assist in the development of effective, efficient and corruption free local governments in other parts of the world. The Province should acknowledge this status and not unfairly tarnish the reputation of municipalities and in turn undermine public confidence in what is an effective level of government.

AMO believes that these examples bring into question the Provincial Government's viewpoint of the municipal sector as a duly elected level of government. The Association therefore considers it imperative that at the outset of this review the terms of reference for this inquiry should recognize that planning is a government function shared by the Province and municipalities, and together the two levels of government must clarify and define their roles and responsibilities. Like in other areas of shared provincial-municipal jurisdiction, AMO is committed to increasing the spirit of cooperation and

partnership between the Province of Ontario and municipalities in the area of planning. The success of this commitment clearly calls on a parallel commitment from the Province to demonstrate respect for municipalities as not just another interest group but as a duly elected level of government which serves the same constituents as the Province of Ontario.

Parallels to Provincial-Municipal Financial Disentanglement

This spirit of cooperation has been particularly in evidence with the successful implementation of a process of provincial-municipal financial reform. Municipalities have long argued that policy setting, provision and financing of provincial and municipal services are grossly "entangled" and that this has a profound negative impact on government accountability, economy, efficiency and effectiveness.

In 1991, in recognition of this problem, the Province announced the formation of a Steering Committee to coordinate a process of provincial-municipal financial "disentanglement." The ultimate goal is a division of service management, delivery and funding responsibilities which gives each level of government clear responsibility for specific services, and the authority and financial capacity to effectively perform its role. One of the benefits of disentanglement will be that municipalities will be able to set priorities based on the needs of local communities and be able to plan for the future knowing they will be able to control their programs over time. Perhaps the most significant benefit will be improved public accountability as this would lead to a clearer public understanding of the responsibilities of each level of government.

The disentanglement process has been described at length because it demonstrates the move towards stronger and more accountable local government and the recognition of municipalities as a duly elected level of government, and it reflects or echoes the current "entangled" planning process which lacks clear provincial and municipal lines of authority and jurisdiction.

It is this "disentanglement" vision of the municipal sector that AMO wants to reinforce in entering this planning review process, not the vision put forward in the Commission's terms of reference, or in the underlying assumptions of *Open Local Government* legislation or in the introduction of *Bill 143*.

Why a Planning and Development Review?

The Commission has stated that this review is necessary for the following reasons: the process seems interminable and subject to considerable drift; there is a lack of clarity about what the planning system is trying to accomplish; there is concern that environmental and energy questions are being overlooked; and, there is concern that various levels of public and private interests have compromised the integrity of the process and the quality of decisions.

AMO agrees with the above and would add the following: there is an extraordinarily lengthy and costly approvals process which doesn't necessarily result in the best decisions being made; there is a lack of recognition of the sophistication and expertise of municipal staff and politicians; there is a lack of clarity in provincial priorities; there is an inordinate amount of provincial government supervision; there are two run-away and parallel processes: Environmental Assessment and Planning; there is an absence of provincial coordination or appropriate bureaucratic structures to deal with interrelated planning issues; etc.

Clearly, to address these issues does not merely require the articulation of goals or the rewriting of the *Planning Act*. It requires looking at the adequacy of existing government planning structures to make planning and environmental decisions, the operation of the planning system itself, government accountability, and the definitions of provincial and municipal responsibilities and decision-making jurisdiction. In support of this understanding, recommendations for the examination of these issues are made by AMO in this first report.

Three Part Response

There are three parts to AMO's response. The first identifies a set of principles for reforming the "entangled" planning process and for achieving the needs of a desired planning system. In this part, the Association establishes principles for the reform of the planning system. The second part proposes what aspects of the planning system AMO believes should be contained within the Commission's mandate. The last part of this response deals with the planning and development goals proposed by the Commission, and recommends a three-part articulation in the *Planning Act* of overall planning goals for Ontario.

AMO recognizes that planning process issues are to be dealt with in the second report of the Commission which is to look at broadening the scope of planning to more strongly integrate environment, energy, agriculture and heritage concerns into land use considerations:

> "The goal is to produce an integrated system which takes all concerns into account in a fair, efficient and timely fashion. Different planning regimes -- or processes -- might be appropriate for different situations, depending on development pressures, the nature of the environment, the need to prevent rather than encourage change, and so forth. In any case, the recommended planning system must be effective, efficient, open, timely, and accountable."[4]

However, AMO has focused part of this first response on the establishment of a set of principles for the planning system and the Commission's mandate as it relates to the planning system for the following reasons. First, many of the Commission's proposed goals are about process issues such as the streamlining of the development approvals process and the ensurance of a high degree of responsible decision-making. Second, as discussed above, the identification of problems with the operation of the planning system has been central to the establishment of this review. Third, AMO believes that the drafting of planning goals must be conducted against a framework or set of principles regarding a desired planning system. AMO believes that the way "provincial goals" or provincial interests are articulated (e.g. broad or specific; objectives or means) to a great degree impact on the operation of the planning system. For example, the establishment of very specific and rigid goals would require greater provincial control and supervision and a decrease in municipal authority and autonomy.

The development of these principles at the outset does not compromise the identification of the content of goals but rather provides a structure and criteria for their form (e.g. specific vs broad). Finally, AMO believes we cannot think of goals in terms of the existing planning system because as stated above it is agreed that it must be fundamentally changed.

Background Reports

In addressing these issues we have the benefit of numerous reports and papers all addressing, perhaps in different words, similar ideas. Reports such as those prepared by the Royal Commission on the Future of the Toronto Waterfront, as well as numerous reports written by AMO over the past years have to a great extent identified these issues and proposed courses of action. In particular the background reports of the last major review of planning legislation are of particular relevance.

Relation to 1970's Planning Act Review

It is important and interesting to place this review in relation to the last major rewriting of planning legislation which took place primarily between 1976 (with the establishment of the Planning Act Review Committee) and was completed with the enactment of the *Planning Act, 1983*. In later sections of this response, AMO has referred to this earlier review because some of the same issues or concerns identified then are still being raised today.

For example, the issue of provincial interest in, and goals for municipal planning, was then and continues to be questioned. Consequently, much can be learned from this earlier in-depth review. Therefore, this response has included an analysis of how these issues were proposed to be addressed, how they eventually were addressed, and then, if they have not achieved their original purpose, asks why this is the case. From this AMO has evaluated whether it is necessary to replace or modify these approaches.

2 PLANNING PROCESS PRINCIPLES

AMO believes there is a need for the following principles which should serve as a framework for the review of the planning process and the establishment of provincial goals: accountability, decision-making authority, appeal and review, public consultation and timely decision-making. As the following text will illustrate, these five principles are interrelated and together form the basis for strong, self-reliant municipal governments in planning.

2.1 Accountability

Accountability refers to the ability of the electorate to hold their elected representatives responsible ("to account") for their decisions; in order to hold their elected representatives to account, members of the public must be able to effectively express their satisfaction or dissatisfaction through the ballot box.[5] Municipal officials often argue that accountability is there at the local level, that is, the public often hold their municipal politicians "to account" for planning decisions. However, in many cases, municipal councils cannot respond to these public demands because decisions have been made elsewhere, at the provincial level or at the Ontario Municipal Board, for example. Increasingly, final planning decisions are being made by provincial bureaucracies or the Ontario Municipal Board (OMB), both of which are not directly accountable to the communities for which decisions are being made. In both cases, AMO believes that the decision-making authority of these bodies should be limited to a set of specific issues.

In order to increase accountability first requires that there be clarity in the roles and responsibilities of all the decision-makers involved in the planning process. A focus of this planning review should therefore be the clarification of provincial and municipal roles.

In 1979, AMO defined accountability in planning in the following principle: Provincial planning legislation must reflect the right and obligation of municipally elected officials to determine policies, procedures, and standards appropriate to their municipality. This principle raises another aspect of accountability, that municipalities should have the authority to make decisions which are appropriately made at the local level, and that in exercising this authority, they should be able to ensure that the decisions made are appropriate to local circumstances and conditions.

Principle 1

Provincial and municipal planning responsibilities should be clearly defined to ensure that elected representatives can be held accountable for their planning decisions. Therefore, the fundamental basis for accountability should be to strengthen the democratic process by ensuring that planning decisions are made in an open political process. This means redefining the roles, and limiting the power and interference of bureaucratic, non-elected bodies and increasing the decision-making authority and obligations of democratically elected councils.

2.2 Decision-Making Authority

Greater accountability and decision-making on appropriately local issues requires not only a clarification of municipal jurisdiction in planning, but also greater decision-making authority at the municipal level of government.

To some extent the issue of municipal decision-making authority concerns the need to support the maturing of the provincial-municipal relationship. Over the past few decades, the level of municipal government planning sophistication has increased substantially. Many municipalities have an organizational structure with more experienced and knowledgable staff than that at the provincial level. Yet there is still little acknowledgment of this in the delegation of decision-making authority.

Consequently, the existing planning process is one of jurisdictional gridlock wherein municipalities cannot mature in their carrying out of planning responsibilities, and where the Provincial Government expends enormous resources in unnecessary supervision and a correspondingly insufficient attention to research, coordination and leadership.

This lack of recognition was also experienced at one time in the field of municipal finance. In the past there was a role for the Ontario Municipal Board in the review of municipal financial decisions, however now municipalities are generally far more sophisticated and

capable of managing their financial affairs. AMO believes that the same can be said for the management of municipal planning and the declining need for reviews of specific decisions by the OMB.

In general, AMO believes that if municipalities have the capability to carry out specific planning functions, then they should have the delegated authority and responsibility for these functions. AMO stated this as the following principle in 1979, that the delegation of authority for municipal planning shall be automatic when the municipality receiving the power has met legislated criteria.

An issue that arises in the discussion of delegating further authority to the municipal level is the division of decision-making responsibility between existing lower and upper tier municipalities. In its current form, the *Planning Act* does not recognize the two tiered system nor does it assign specific responsibilities to upper and lower tier municipalities (however, some regional acts do). Therefore, the further delegation of planning authority should also involve the rationalization of decision-making responsibilities between municipal governments to avoid duplication. This issue will be further discussed in the Association's next report.

Principle 2

Municipalities should have increased legislated decision-making authority for planning functions for which they have a demonstrated capability and for which they are accountable.

2.3 Appeal and Review

Problems with the Existing Appeal Mechanism

The principles of accountability and decision-making authority bring into question the extent to which the appeal and review of municipal decisions should remain such a predominant feature of the planning process. The existing appeal and review process has numerous documented problems, from the extraordinary time delays to the duplication of planning review functions.

The objective is to ensure that decisions that are

appropriately made at the local level should not be subject to appeal to an administrative tribunal or the approval of a provincial bureaucracy. AMO therefore believes that fewer decisions should be appealable to the OMB. This would mean further advancing the changes which occurred with the introduction of the *Planning Act, 1983* which moved the system from one in which every municipal zoning by-law had to be referred to the OMB to one where only appeals of municipal zoning by-laws are referred to the OMB.

One possible outcome of such a change could be that contentious decisions will be dealt with at the local level. For example, currently some councils may chose to pass on contentious issues to the OMB rather than force an unpopular decision at the local level. Of contentious issues, some estimate that about 90% get to the OMB. In this way, the OMB is being inappropriately used.

With respect to reviews by the provincial bureaucracy, it is clear that reviews are slow, adding to the delays and uncertainty experienced by proponents, the public and municipalities. It has been argued that the primary reason for delay is overload: there are simply too many cases and not enough staff to undertake reviews in a timely fashion. To illustrate the point, it has been documented that for 1991, the Ministry of Municipal Affairs' Plans Administration Branches (95 people) are expected to be involved in reviewing and commenting on eight regional official plans, ten county plans, 98 lower-tier official plans, 1,150 official plan amendments, 415 plans of subdivision/ condominium, 90 zoning orders or amendments, 1,355 consents, and 475 road adjustments.[6]

AMO agrees that there is a need for the appeal and review of some municipal decisions which are appropriately defined as instituting an interest beyond the local municipality. For example, if there is an overriding provincial interest, then a municipal decision should be appealable or subject to provincial review. However, these situations should be clearly established within the *Planning Act*. AMO will make proposals for defining these situations in its next report.

AMO's position on the planning appeal process is conditional upon the restructuring of the existing appeal and review mechanisms. Alternative models for

the appeal process should be reviewed (e.g. local/regional hearing panels based more on conflict resolution). In AMO's next report, the Association will address options for alternative appeal mechanisms. AMO will also address changes to the review of municipal planning decisions by the provincial bureaucracy.

Principle 3

The appeal and review of municipal decisions should be limited to those issues which are defined as instituting an interest beyond the local municipality. An appropriate mechanism for the appeal and review of municipal planning decisions is one which reflects greater local accountability and decision-making authority.

2.4 Public Consultation

In 1979, AMO stated as one of its planning principles that all citizens should have access to information and the right to notification, hearing and appeal. Often discussions of a speedier planning process raise the fear that this will result in reductions in the public consultation process. The concept of a decrease in appealable decisions also brings into question whether the public would have adequate input to decision-making. The Planning Act Review Committee also devoted much discussion to the issue of citizen participation in the planning process and adherence to the basic principles of natural justice in the conduct of municipal planning.

AMO agrees that public consultation must also be one of the fundamental planning principles that should guide the reform of the planning system. In its next report AMO will examine issues related to the public consultation process.

Principle 4

Public consultation in the planning process should be structured to ensure that citizens have access to information, and the right to notification and hearing.

2.5 Timely Decision-Making

Related to the appeal and review principle is that of timely decision-making. In 1979, AMO stated that one principle of planning should be the ensurance that planning matters are acted upon without undue delay.

Less provincial supervision and fewer appeals to the OMB would likely contribute to more timely decision-making. As well, changes to the review procedures within the provincial bureaucracy could also decrease the time delays. Similarly, at the municipal level, the "streamlining" of the planning approvals process is one example of an initiative which can contribute to an increase in more timely decision-making.

Principle 5

The organization of the planning system should ensure that planning decisions are made without undue delay at all levels of government.

3 THE COMMISSION'S MANDATE

The Commission's mandate is very broadly stated in the order-in-council to include recommendations on amendments to the *Planning Act, 1983* and other relevant legislation and to undertake other actions needed to achieve its mandate. More specifically it is to inquire into, report upon, and make recommendations on legislative change or other actions or both, needed to restore confidence in the integrity of the land use planning system. This includes the determination of the appropriate roles and relationships of elected officials, administrators, the development industry, interest and lobby groups, the public and the OMB in the land use planning and development system.

The Commission has stated that its mandate is the planning system which to some extent goes beyond the *Planning Act*, but does not include government structures, economic development or considerations of

the property tax base. However, some of the Commission's proposed goals have addressed the issue of municipal planning structures; for example, the following was put forward by the northwestern working group:

> "To develop an appropriate framework for planning and decision-making which ensures that important decisions are made in Northwestern Ontario rather than in Southern Ontario, Regional structures will be established with the following responsibilities and obligations .... Regional structures will consist of officials elected either directly or indirectly from the region. The exact form of the regional structure will be determined by municipalities, First Nations and other interests in the region."

It is interesting to note that the northwestern working group recognized that it was not possible to address planning goals without first identifying the necessary structures to implement a desired planning system.

AMO agrees that the Commission must look beyond the *Planning Act* itself to include other relevant legislation. In particular, AMO believes that the Environmental Assessment Act must be included in this review. In addition, the determination of the appropriate roles and relationships of the various players listed above requires that existing government planning structures be addressed in terms of their ability to meet "appropriate roles." AMO has therefore devoted this part of its response to addressing these issues.

As a final note, this section does not attempt to offer final proposals or solutions to these issues but rather focuses on making recommendations on issues AMO believes should be addressed by the Commission.

3.1 Provincial Planning Structures

Some of the reasons cited in support of this review were identified in the introduction: the extraordinarily lengthy and costly approvals process, the lack of clarity in

provincial priorities, and the absence of provincial coordination or appropriate bureaucratic structures to deal with interrelated planning issues. At the heart of many of these problems is the organization of the provincial bureaucracy.

First, the expression of provincial interests and involvement in land-use planning are largely ministry-specific. There has long been recognition that different provincial agencies or departments are not able to work together to arrive at coordinated evaluations of planning proposals. Agencies undertake reviews separately which often leads to fragmented and conflicting comments.

For example, a report prepared for the Ministries of Housing and Municipal Affairs on Mechanisms for Affordable Housing (Comay Report)[7] made recommendations for resolving conflicting provincial policies and requirements regarding the housing policy statement. These recommendations have been generalized below to encompass all provincial policies:

- Establishment in the Ministry of Municipal Affairs of a "single window" communication channel for all provincial comments (i.e. "streamlining").

- Ministries and government agencies should only be able to issue requirements that emanate from a formally-adopted policy statement or guideline (i.e. ministries with clear mandates and authorities).

- Stipulated deadlines: Fixed circulation deadlines for Ministries and agencies.

- Formally-determined policy base: Where there are conflicting provincial requirements the matter should be referred to an internal coordinating body, such as the Land Use/Water Use Committee, for resolution. If the matter is not resolved at this level within a stipulated period, it should be then referred to a relevant political committee, like the Cabinet Committee on Housing and Community Development.

- Municipal Affairs should be required to establish a framework of principles and procedures for reconciling relative priorities between different

provincial policies.

Many planning reports and papers have also recognized this as a fundamental issue to be addressed in the review of Ontario's planning system.[8]

Examples of provincial coordination can be found in other provinces. For example, Manitoba has an interdepartmental committee called the Provincial Land Use Committee and the Province of British Columbia has a Land Use Committee.

The structure of the Provincial Government bureaucracy therefore must also be questioned in terms of its contribution to the problems with the planning system and its ability to implement overall planning goals for Ontario. The ultimate goal is a provincial government that is integrated to deal with the interrelationships amongst different policies and their application to specific areas of the Province.

The proposals for changes to the provincial bureaucracy range from relatively minor (the establishment of fixed circulation guidelines) to major changes (new provincial decision-making structures). AMO believes that the Commission should consider issuing interim recommendations for some immediate "quick fix" changes which could be made to address the concerns stated in this section. There are three reasons why AMO believes this should be supported:

- Despite the Commission's prediction of a two-year mandate, the expectation is that it may be several more years before anything tangible is implemented.

- Numerous studies and reports have already made recommendations for changes in the provincial land use decision-making process.[9]

- If all policy issues are put on hold and/or deferred to the Commission then the Commission itself may become part of the problem (ie. slowing down changes that could improve the planning system).

Therefore AMO puts forward the following recommendation for which the Association will make specific suggestions in its next report.

Recommendation 1

The Commission should consider issuing interim recommendations for immediate changes which could be implemented in the organization of the provincial bureaucracy.

Recommendation 2

The review of the planning system must include reform of the provincial bureaucracy to achieve better integration and coordination of provincial land use policies and improvements in the efficiency of the planning approvals process.

3.2 Sub-Provincial Planning Structures

Currently, each ministry of the Province has its own set of uncoordinated sub-area field offices, many based on different geographical boundaries. Greater integration of provincial policies at the central bureaucracy would also require the integration of ministerial field offices. This would provide a mechanism for ensuring that the application of integrated provincial land use policies to specific sub-areas of the Province is reflective of area differences.

In this model, the field staff of line ministries could be transferred to ministries responsible for sub-areas of the Province, for example, the Southwestern and Eastern Ontario "Ministries". These sub-area ministries would be responsible for programs and the application of central policies. The line Ministries would remain intact at the central bureaucracy with prime responsibility for research, policy development and integration.

This would also result in a reduction in the alienation areas outside of the greater Toronto area experience with regards to planning policies and decisions made in Queen's Park which are often insensitive to area differences. This would not lead to duplication and could ultimately result in a more efficient and streamlined Provincial Government. It

certainly would improve the accessibility of the Provincial Government to areas of the province by providing "one-stop" decentralized offices.

To some extent a model of this nature exists in northern Ontario with the Ministry of Northern Development and Mines which has a mandate to coordinate the policies and programs of the provincial ministries to ensure that the special needs of northerners are addressed by the Government.

Recommendation 3

The review of the planning system should include consideration of alternative sub-provincial structures to achieve the coordinated implementation of provincial land use policies which is reflective of area differences.

3.3 Municipal Planning Structures

AMO believes that a review of the existing planning system also needs to include a review of municipal planning structures. First, the discussion of municipal planning structures should be framed within the principles proposed in the previous section, particularly that of decision-making authority. The principle had two main components: the rationalization of decision-making responsibility between municipal governments to avoid duplication; and the increased decision-making authority for planning functions (including some currently under provincial jurisdiction) to municipal governments which have a demonstrated capability. The application of this principle requires that we look at existing municipal planning structures and their capability to assume greater decision-making authority.

A further consideration in the discussion of municipal planning structures is the ability of existing municipal jurisdictions to address planning issues which transcend political boundaries. The interjurisdictional character of many environmental issues has brought into question the ability of municipal planning structures to conduct land use planning based on an "ecosystem" approach. A concept recently popularized by several

studies, the ecosystem as the basis of intermunicipal planning has gained increasing support and acceptance.[10]

An ecosystem approach encompasses natural, physical, social, cultural, and economic considerations, and the relationships among them; focuses on an understanding of the interactions among air, land, water, and living organisms, including humans; emphasizes the dynamic nature of ecosystems; recognizes the importance of living species other than humans, and of future generations; and works to restore and maintain the integrity, quality, and health of the ecosystem.[11]

It is also argued that municipal boundaries are not appropriate in terms of representing and planning for the built environment and infrastructure needs such as sewer and water servicing and transportation networks.

The "ecosystem" approach does not allow for one geographical definition, that is, there is no "one" set of boundaries which could encompass all of these objectives regarding intermunicipal planning for the natural and built environments. However, it is possible to better approximate ecosystems through the establishment of intermunicipal planning jurisdictions.

AMO therefore believes that this planning review should examine the following three types of intermunicipal structures towards ensuring that municipal planning structures are in place to implement the principle of decision-making authority and that planning structures are created for dealing with issues which transcend existing municipal political boundaries (ecosystem approach).

Existing Regional Municipalities and Counties

This type of intermunicipal planning jurisdiction is that which currently prevails - regional municipalities and counties which serve as upper tier planning authorities. In many cases these existing jurisdictions may not require modification in order to meet the above stated objectives.

"Amalgamations" of Existing Regional or County Planning Structures - Sub-Area Planning Commissions

This type of planning jurisdiction is one which encompasses more than one existing region or county in order to more closely approximate the boundaries of physical, social and economic parameters. This basis of intermunicipal planning currently has no legislative

framework, however there has been some experimentation with coordinating the planning of areas larger than existing municipal political boundaries in the greater Toronto area. Most recently this has involved the establishment of the Office of the Greater Toronto Area which has been overseeing the development of an intermunicipal consensus on planning issues. In other parts of the province, this could involve a number of counties which could form sub-area planning commissions to coordinate planning initiatives.

This type of intermunicipal planning jurisdiction is not proposed for the purposes of creating an additional tier of municipal government. Rather, in those instances where it is deemed appropriate for the purposes of planning, intermunicipal planning structures should be permitted. A legislative framework for the establishment of intermunicipal planning structures should therefore be investigated.

There are some examples of this type of intermunicipal planning structure which should be examined such as Quebec's regional county municipalities and Alberta's regional planning commissions. In the latter example, the primary responsibility of regional planning commissions is the preparation and adoption of a regional plan. Other duties include advising "member" municipalities in planning matters and acting as subdivision approving authorities.[12] Finally, the review of alternatives should also include a re-consideration of the concept of joint planning boards which was a feature of the *Planning Act* prior to 1983.

Intermunicipal Planning Authorities in Northern Ontario

One of the concerns about municipal planning structures is their absence in northern Ontario. In the north it may be appropriate that intermunicipal structures be established to serve as a planning jurisdiction for northern communities. These could also be structured as "sub-area planning commissions" as discussed above.

Objectives for the Creation of Intermunicipal Planning Authorities

All three types of intermunicipal planning jurisdiction should be considered according to the following objectives:

- Intermunicipal planning authorities should be established with structures that best suit local

conditions and planning needs. This would allow for unique structures in different parts of the province.

- The appropriate intermunicipal structure for different parts of the province should be determined by the relevant municipal governments subject to provincial approval.

- There should be <u>at most</u> two levels of municipal planning authority - local and region/county/sub-area planning commission.

- Currently some municipalities do not have the resources or expertise to assume greater decision-making authority in planning. In these cases it is often necessary that the Provincial Government, with its resources and staff, be involved to a greater extent in supervising and planning for these areas. The purpose of intermunicipal planning authorities would be to pool municipal resources and expertise to ensure that municipalities have the capability to ultimately assume more decision-making authority for functions currently under provincial control. Or, as aptly stated by the northwestern working group, "to develop an appropriate framework for planning and decision-making which ensures that important decisions are made in Northwestern Ontario rather than in Southern Ontario."

In the forgoing text AMO has described possible changes to municipal planning structures. In the Association's next report, a more detailed analysis of this will be provided. At this stage AMO's objective is to state the need to include the examination of municipal planning structures within the Commission's mandate.

Recommendation 4

The review of the planning system should include consideration of alternative intermunicipal planning structures to ensure that these planning structures have the capability to assume greater decision-making authority for some functions currently under provincial jurisdiction and to address planning issues which transcend existing municipal political boundaries. The consideration of intermunicipal planning structures should also involve the rationalization of the division of planning responsibilities between municipal jurisdictions.

3.4 Environmental Approval

There are numerous pieces of legislation directly related to land use planning - the *Conservation Authorities Act*, the *Ontario Water Resources Act*, the *Aggregate Resources Act*, the *Energy Board Act*, the *Land Speculation Act*, the *Niagara Escarpment Planning and Development Act*, the *Pits and Quarries Act*, the *Provincial Parks Act*, the *Ontario Municipal Board Act*, the *Environmental Protection Act*, the *Heritage Act*, and the *Environmental Assessment Act*. Therefore when addressing the planning system, we must also take into account this plethora of legislation impacting on the operation of the planning system in Ontario.

AMO believes that the Commission must look at these other pieces of legislation. In particular AMO believes that the *Environmental Assessment Act* must be part of the review of the planning system. While the following discussion focuses on the *Environmental Assessment Act*, others could also be considered, such as the *Heritage Act.*

Currently, environmental approval is on a separate track from planning approval. It is a convoluted process with no guarantees that the best environmental solutions will come forward. **In fact, it is becoming clear that the environmental assessment process is not an "approvals process" at all because decisions are not being made.**

Many would argue that there are too many "gates" which an issue has to go through without knowing the rules for going through the gates. There is no greater example of this than in the case of waste management. It is clear that an ever-increasing number of municipalities are or will soon be facing a landfill crisis, and will thus find themselves forced to face the environmental assessment process with all of its problems and inability to come to reasonable decisions within reasonable time frames. Some would argue that unless this is addressed as soon as possible, environmental damage will result (e.g. delays in landfill approvals may result in the over use of existing landfills).

In AMO's response to *Toward Improving the Environmental Assessment Program in Ontario*, the Association re-iterated its position that the *Planning Act* and the *Environmental Assessment Act*, as well as any other pertinent legislation, be amended to ensure better integration of the planning and environmental assessment processes in Ontario.[13] This position was first articulated in the Association's report, *The Waste Management Planning and Approvals Process*.[14] The report argued that a formal incorporation of the two processes, where feasible, could resolve many of the system's current problems.

The practical means through which the integration of the two processes could be achieved will be addressed by AMO in its next report.

Recommendation 5

The review of the planning system should involve the development of an integrated environmental assessment and planning process.

4 PLANNING AND DEVELOPMENT GOALS

4.1 Provincial Interest as Expressed in "Planning Goals"

In approaching the planning goals proposed by the Commission AMO first questions whether the planning goals actually represent a shared vision or direction. It

is AMO's position that in their current form this statement of goals is "off track" since it does not focus on an overall vision for Ontario, but rather on the merits of specific goals. Through this response AMO hopes to bring the discussion of planning goals "back on track."

Further to this issue AMO would like to state its concern that the goals as presented have not been useful in focusing debate on the fundamental issues at hand. Rather some of them have been seen as scare tactics, such as proposing a ban on septic tanks or 15 upa for residential development, and therefore have detracted discussion from an overall vision.

However, the northeastern working group's goals best address the statement of an overall vision. These more closely approximate the form of goals AMO believes are appropriate.

AMO therefore agrees that there should be a set of provincial "goals" but not at the level of specificity presented; rather goals representing an overall vision of "where planning should be going" are appropriate within the legislation.

The majority of the planning goals stated in the Commission's report reflect provincial interests in planning currently expressed in the *Planning Act* or in policy statements. In recognition of this, AMO has examined the expression of provincial goals through these mechanisms. But first the Association has conducted a critique of the goals; following this the Association proposes what it believes to be the appropriate legal expression for provincial goals.

Goals Confuse "Ends" and "Means"

A goal is "the end toward which effort is directed". In many cases, the goals are not in fact "goals" but are the "means" or policies to implement underlying goals and objectives. For example, the goal that:

> "an appropriate mix of uses are permitted and residential densities will be sufficient to efficiently support services such as transit, schools and ambulances. Such density should be at least 15 units per net residential acre unless it can be conclusively demonstrated that a lesser density can achieve the objective."

This goal represents the specific means (15 upa) to achieve an underlying objective of housing intensification.

Furthermore, if we accept AMO's principle of accountability and greater local decision-making authority (i.e. decentralization) then the goals as stated go against this principle in that their specificity would amount to a greater centralization of decision-making and supervisory control by the Provincial Government.

Goals Are Narrow in Scope

The proposed goals place an emphasis on the environment but not how to integrate this with economic and social goals. As a result, the goals are largely one dimensional, and all other goals seem to have been subordinated to this. Generally AMO believes that the goals need to be broadened to include economic and social aspects.

As a further consideration, AMO believes that the environmental goals represent increased environmental standards which would have an impact on other areas of public policy (e.g. impact on provision of affordable housing and on economic development). This continues to reflect one of the existing problems with provincial policies - the lack of integration between individual goals and the impact of one set of goals on the achievement of another.

AMO also questions the meaning of the word "remediation" which is used in some of the statements on environmental goals. Does this mean the planning process has to lead to an improvement in environmental conditions? does this mean the upgrading of the environment should be a condition of the planning process?

Goals Are Too Specific

Many of the goals are very specific and therefore do not provide flexibility for responding to the changing economic, social and environmental context of Ontario. An additional concern is that with such specificity, goals would likely require frequent amendment which usually entails a lengthy process.

The goals are also too prescriptive. For example, the proposals to ban septic tanks, of 15 units per net residential acre and setbacks of at least 20 meters from

natural shorelines illustrate the inappropriate level of detail of the provincial goals. In their current form, many of the goals are more like provincial regulations not goals. As a principle, AMO believes that goals at this level of detail should be generated at the local level.

Distinct Goals for Different Categories of Municipalities?

AMO also questions the division of goals into six different planning "systems" and how would these would ultimately interface. Furthermore, it can be argued that goals within the individual categories would not likely be relevant or appropriate to all municipalities designated to fit within that category.

Recommendation 6

As a general principle, goals at the level of detail proposed by the Commission should not be in the Planning Act. AMO believes that the appropriate expression of goals within the Planning Act is one that provides an overall framework that is broad in scope and has sufficient flexibility to address the changing economic, social and environmental context of Ontario and the varying circumstances of local communities.

Appropriate Legal Context For Goals

The Commission states that it is not sure as to what the legal context for these goals should be. It is stated that it could be section 3 of the *Planning Act*; it could be regulations established under the *Planning Act*; or it could be right in the *Planning Act*. The Commission's main objective is that it wants these to be binding for everyone, including rules which the Province must also follow.

Regarding the appropriate legal context, AMO believes this should be determined within the framework of principles proposed by the Association at the beginning of this response, primarily that of accountability, increased decision-making authority at the local level and decreased appeal and provincial supervision of appropriately local issues.

4.2 Proposals for the Expression of Provincial Interests

The *Report of the Planning Act Review Committee* (PARC Report) which formed the basis of the *Planning Act, 1983* paid little attention to the content of planning and focused on organizational and procedural issues. However, it did introduce and ultimately result in the institution of "provincial interest" as a part of planning legislation. The following discusses the background to the introduction of provincial interest in the *Planning Act, 1983* and reviews its force and effects. Following this, AMO recommends reinforcing the existing mechanisms in the *Planning Act* for the expression of provincial interests: a purpose of planning statement; a statement of provincial interest in planning; and planning goals as represented in policy statements.

4.2.1 "Purpose of Planning" Statement

In response to the PARC Report and the Provincial Government's White Paper on the Planning Act, 1979 (the White Paper) AMO expressed concern with the focus on the planning process in absence of addressing the reasons for, and the objectives of, municipal planning: "Serious consideration of the purposes of municipal planning would have changed the orientation of the White Paper and its emphasis on procedural matters."[15]

The Commission itself states that "Planning makes a great deal of sense if there is a shared direction. Without direction, planning becomes a process without much content." The Commission argues that its proposed goals present a vision of a shared direction and that the goals help to clarify possible paths. However, as argued above, the collection of individual goals put forward by the Commission do not represent a shared direction or clarification of possible paths. Rather they represent a collection of broad and specific goals which range in their focus on planning "ends" (objectives) and "means" (mechanisms).

As discussed previously, in the review which lead to the *Planning Act, 1983*, AMO argued that a statement on the reasons and purposes for, and the objectives of, municipal planning should be included in the legislation.

All of the working groups proposed one goal which embodies an overall objective for planning. For example, the following were proposed as statements of purpose:

Rural/Small Centre Working Group: The purpose of planning in rural areas and small centres is to support and enhance the social, economic and cultural vitality of rural areas and small towns; to protect natural environments, ecosystems and the rural landscape; and to preserve, manage and enhance the rural resource base.

Northeastern Working Group: The purpose of planning in Northeastern Ontario is to strengthen the economic, social and cultural life of communities, maintain and enhance ecological functions and environmental features, and make efficient use of existing and new infrastructure.

Lake, Riverine and Cottage Country Working Group: Planning will ensure that future changes protect and enhance health, safety, ecological systems, and landscape and natural features, improve the economic health of existing communities, and integrate the various interests and uses within the community.

These broad statements provide the basis for the expression of a "purpose of planning statement" within a new Section 1 of the *Planning Act*. AMO supports the following broad statement of purpose suggested by the Regional Planning Commissioners.

Recommendation 7

AMO recommends that the following purpose of planning statement be included within a new section 1 of the Planning Act: The purpose of planning is to guide change in communities in a manner which fosters environmentally, economically, and socially healthy places to live.

4.2.2 Statement of Provincial Interest in Planning

The PARC Report identified the need to define within the *Planning Act* the Province's interests in municipal planning. The PARC Report proposed the principle of a two levelled expression of this interest: a general statement of goals in the Act and the subsequent elaboration of these goals in accompanying statutory orders.[16] This first level is discussed below.

> "The Province should not allow municipalities to take actions which impair the achievement of provincial policies and programs in economic, social and physical development, in the protection of the natural environment, and in the conservation and management of natural resources.
>
> It is our proposal that the provincial interests in municipal planning should be defined in legislation. If these principles are altered over time or new provincial interests are identified, they should similarly be incorporated in the Act."

The White Paper accepted this and proposed the following:

> "A general statement of broad provincial interests will be incorporated in the Act to indicate that in reviewing planning applications, the Minister will ensure that provincial physical, economic and social development policies, including the following, will not be jeopardized..".

This policy was largely incorporated in section 2 of the *Planning Act, 1983* which identifies provincial interests in the following ways:

"The Minister, in carrying out his responsibilities under this Act, will have regard to, among other matters, matters of provincial interest such as,

(a) the protection of the natural environment, including the agricultural resource base of the Province, and the management of natural resources;

(b) the protection of features of significant natural, architectural, historical or archaeological interest;

(c) the supply, efficient use and conservation of energy;

(d) the provision of major communication, servicing and transportation facilities;

(e) the equitable distribution of educational, health and other social facilities;

(f) the co-ordination of planning activities of municipalities and other public bodies;

(g) the resolution of planning conflicts involving municipalities and other public bodies;

(h) the health and safety of the population; and

(i) the protection of the financial and economic well-being of the Province and its municipalities."

It is not surprising that many of these statements are reiterated, in a more elaborated and sometimes specific form, in the planning goals proposed by the Commission. For example, "Decisions regarding infrastructure and development will respect and strengthen existing cultural and historical patterns such as important natural and archaeological features, roads, buildings, neighbourhoods, settlements and tree lines" is one of the "common ground" goals proposed, and echoes clause (b).

AMO believes that what is required is a revision of section 2 of the *Planning Act, 1983* to clarify the provincial interest and responsibilities. This supports AMO's position that the appropriate expression of goals within the *Planning Act* is one that provides an overall framework that is broad in scope and has sufficient flexibility to address changing conditions and varying local circumstances. An example of such a revision was prepared by the Regional Planning Commissioners and is included in Appendix A for illustration.

Recommendation 8

AMO recommends that the statement of provincial interest in planning under section 2 of the Planning Act be amended.

4.2.3 Planning Goals as Represented in Policy Statements

As the second level in the expression of provincial interest, the PARC Report stated that "it can be expected that the principles will be elaborated from time to time as specific provincial policies are articulated in detail (as, for example, the establishment of provincial policy on agricultural land use). The application of detailed provincial policies should be implemented by way of regulations or other statutory orders, formally adopted by the provincial Cabinet and having the force of law."

The White paper supported this second level stating that "to elaborate on defined provincial interests, the Act will authorize the Minister either independently or jointly with other Ministries, to publish policy circulars. In addition, the legislation will be supported by regulations and planning guidelines. Technical advice and assistance to municipalities will be expanded."

AMO supported the two level approach insofar as the Province would commit itself to publish policies which elaborated on the broad principles contained in the legislation under section 2 of the *Planning Act, 1983*. AMO expressed concern that there were few published Provincial statements of policy and that in order for this proposal to work, such statements must be produced in order to provide clarity and certainty on these issues. AMO also stated that various methods of expanding or elaborating on Provincial policies should not be used, and that policy statements should be the main vehicle for the expression of provincial interest.

AMO's main apprehension with this approach was that only those policy statements that have undergone municipal circulation and review and that have received Cabinet approval should constitute "provincial interest" and serve as the basis upon which the Government may intervene in the municipal planning process. AMO

stated that the Provincial Government must publish its policies to provide municipalities with a framework within which to plan; if the Province does not explicitly state its policy the municipality will still operate in a system fraught with uncertainty and conjecture on Provincial intentions.[17] Indeed the PARC Report had in fact also stated this, that Provincial involvement in municipal planning should not go beyond formally defined provincial interests.[18]

Provincial Policy Statements have become the mechanisms through which "common planning goals" or planning issues of provincial interest are expressed. In fact, as stated previously, many of the goals proposed by the Commission relate to existing or proposed policy statements. For example, the goal of no development on Class 1-3 wetlands and agricultural lands; and the goal of a mix of housing and affordable housing.

To date there are three adopted *Planning Act* Policy Statements (affordable housing, floodplain planning, and mineral aggregate resources), and one soon-to-be adopted on wetlands. It has been argued that the failure of the Provincial Government to follow through on the establishment of policy statements is at the heart of problems identified with the planning process.[19]

Certainly policy statements have not been entirely successful or in some cases, fully supported. AMO believes that if we are to propose an alternative to provincial policy statements then we should first identify problems with the existing system and whether there are appropriate solutions. The focus of the following section is to illustrate that problems with policy statements can be addressed partly through changes to government planning structures and decision-making and the articulation of broad policy statements at the provincial level permitting adaptation and implementation by municipal governments.

Legal Authority

Some have questioned the legal authority of policy statements. However, based on the experience of the implementation of the Land Use Planning for Housing Policy Statement, they are used effectively at the OMB to support/reject/modify planning proposals in terms of their conformity with the requirements of a policy statement.

Flexibility and Consistency

The existing policy statements are too narrow; they do not concentrate on establishing goals but rather impose a process or mechanism without regard to regional or local variation. They are not sufficiently flexible for local variations and approaches towards meeting the overall goals and objectives (e.g. the provision of affordable housing (25%)).

AMO believes policy statements should express comprehensive goals that allow for municipal innovation to achieve stated objectives. The more detailed expression and implementation of broad, comprehensive provincial goals could be achieved through a revised planning system such as that proposed in AMO's recommendations on sub-provincial and intermunicipal planning structures.

Provincial Coordination ("streamlining the approvals process")

AMO recently prepared reports on two provincial policy statements: the land use planning for housing policy statement[20] and the draft wetlands policy statement.[21] In response to the former, AMO recognized the following problems and proposed solutions.

The Housing Policy Statement represents the Province's declaration of provincial interest in the land use planning process as it impacts on the provision of affordable housing. One of it's requirements is that municipalities "streamline" their development approval processes, yet there is no corresponding obligation on the part of the Provincial Government to address the significant roadblocks to housing approval within the provincial bureaucracy. Therefore, it is municipalities which are required to bear the responsibility of addressing only one portion of the entire planning approval process. Yet, many believe that addressing provincial roadblocks could potentially yield the most benefit (ie. faster housing approvals) with the lowest cost.[22] This failure on the part of the Provincial Government to address its own approval processes is detrimental to, and stands in the way of, the achievement of the Housing Policy Statement's objectives.

AMO's recommendations on provincial structures would help to address this issue.

Periodic Review

Currently policy statements are not subject to regular review and therefore are not responsive to changing conditions. AMO has recommended that a formal process be instituted for the periodic review and adjustment of all policy statements issued under Section 3 of the *Planning Act, 1983*. The intent of this would be to ensure that the requirements remain responsive to changing conditions and to the experience of operating the statements.

Competing Provincial Interests

AMO has often expressed its concerns regarding competing provincial policies, noting the need for cooperative provincial planning and interministerial coordination in order to address the roadblocks in the planning approvals process:

> "The Provincial Government must establish a formal procedure for expressing provincial priorities with respect to conflicting or potentially conflicting statements, guidelines and any other vehicle for expressing provincial interest with respect to municipal planning. This procedure should provide a clear written statement of provincial priorities to municipalities in advance of their creation and/or review of official plans, zoning by-laws and other *Planning Act* tools.[23]

No provincial mechanism exists for the resolution of apparent conflicts between affordable housing and other provincial interests, or for determining relative priorities among different policies. Continuing to depend on a case-by-case resolution of these perceived conflicts, rather than on a clear written statement of provincial priorities, will likely compromise the operation of the Housing Policy Statement among municipalities, and may serve to undermine some municipal councils' housing initiatives.[24]

The question comes back to whether there is a provincial obligation, parallel to the obligation placed on municipalities, to resolve conflicting demands that may impair the operation of the Housing Policy Statement.

AMO has called on the Provincial Government to establish a provincial obligation, parallel to the obligation placed on municipalities, to resolve conflicting

demands that may impair the housing approval process within the provincial bureaucracy.[25]

Again, AMO's recommendation on provincial structures would help to address this concern.

One Provincial Policy Statement?

One means of formally instituting provincial land use planning priorities could be through the establishment of one "umbrella" policy statement which is comprehensive, and focuses on goals and objectives (ends not means).

An experiment in the preparation of an overall statement of provincial interests in land use planning was initiated in 1990 with the establishment of the Ministry of Municipal Affair's interministerial working group to develop a proposed corporate policy statement on the Province's priority interests in land use, known as the "Umbrella Policy." The aim throughout the process was to provide better policy direction to provincial ministries, public agencies and municipalities on matters related to land use. The project never resulted in a public statement.

Recommendation 9

AMO recommends the establishment of a comprehensive "umbrella" provincial policy statement which elaborates on the provincial interests expressed in a modified section 2 of the Planning Act.

Appendix B contains an example of what such a statement could include and how it could be structured as proposed by the Regional Planning Commissioners.

Status of Existing Policy Statements

The proposed "umbrella" policy statement in Appendix B contains the broad goals and objectives currently expressed in some existing policy statements. Under this proposal, the status of existing policy statements would come into question. AMO believes that the introduction of an umbrella policy statement would require that the whole concept of policy statements be reviewed and modified. This review should reflect the planning process principles and recommendations on provincial and municipal planning structures recommended by AMO and the problems identified with existing policy statements.

Recommendation 10

AMO recommends that the whole concept of provincial policy statements be reviewed including their status in relation to the Association's proposed "umbrella" provincial policy statement.

The proposed three part expression of planning goals will be elaborated on in the Association's next report to the Commission.

5 CONCLUSIONS

This first submission of the Association of Municipalities of Ontario has proposed a framework of principles for a desired planning system and recommendations for issues which AMO argues should be included as part of the Commission's mandate. In addition, AMO has supported a three-part expression of planning goals in planning legislation. Together these principles and recommendations represent the main elements of the planning system which AMO argues should be included in this review. The underlying conclusion of this first submission is that major changes to the *Planning Act* are not necessarily required to address concerns about the planning system. Rather the reform of the planning system should focus on changes to government planning structures within which planning operates; on the division of responsibilities between governments which strengthens the democratic decision-making process in local communities; and on defining an appropriate legal expression for provincial goals which is sufficiently flexible to address the changing economic, social and environmental context of Ontario and the varying circumstances of local communities.

AMO's first submission also establishes an agenda for the further examination of issues at later stages of the Commission's work. In the Association's next report some of these will be elaborated on and specific recommendations for change proposed.

6 SUMMARY OF PRINCIPLES AND RECOMMENDATIONS

Principle 1: Accountability

Provincial and municipal planning responsibilities should be clearly defined to ensure that elected representatives can be held accountable for their planning decisions. Therefore, the fundamental basis for accountability should be to strengthen the democratic process by ensuring that planning decisions are made in an open political process. This means redefining the roles, and limiting the power and interference of bureaucratic, non-elected bodies and increasing the decision-making authority and obligations of democratically elected councils.

Principle 2: Decision-Making Authority

Municipalities should have increased legislated decision-making authority for planning functions for which they have a demonstrated capability and for which they are accountable.

Principle 3: Appeal and Review

The appeal and review of municipal decisions should be limited to those issues which are defined as instituting an interest beyond the local municipality. An appropriate mechanism for the appeal and review of municipal planning decisions is one which reflects greater local accountability and decision-making authority.

Principle 4: Public Consultation

Public consultation in the planning process should be structured to ensure that citizens have access to information, and the right to notification and hearing.

Principle 5: Timely Decision-Making

The organization of the planning system should ensure that planning decisions are made without undue delay at all levels of government.

Recommendation 1

The Commission should consider issuing interim recommendations for immediate changes which could be implemented in the organization of the provincial bureaucracy.

Recommendation 2

The review of the planning system must include reform of the provincial bureaucracy to achieve better integration and coordination of provincial land use

policies and improvements in the efficiency of the planning approvals process.

Recommendation 3

The review of the planning system should include consideration of alternative sub-provincial structures to achieve the coordinated implementation of provincial land use policies which is reflective of area differences.

Recommendation 4

The review of the planning system should include consideration of alternative intermunicipal planning structures to ensure that these planning structures have the capability to assume greater decision-making authority for some functions currently under provincial jurisdiction and to address planning issues which transcend existing municipal political boundaries. The consideration of intermunicipal planning structures should also involve the rationalization of the division of planning responsibilities between municipal jurisdictions.

Recommendation 5

The review of the planning system should involve the development of an integrated environmental assessment and planning process.

Recommendation 6

As a general principle, goals at the level of detail proposed by the Commission should not be in the *Planning Act*. AMO believes that the appropriate expression of goals within the *Planning Act* is one that provides an overall framework that is broad in scope and has sufficient flexibility to address the changing economic, social and environmental context of Ontario and the varying circumstances of local communities.

Recommendation 7

AMO recommends that the following purpose of planning statement be included within a new section 1 of the *Planning Act*: The purpose of planning is to guide change in communities in a manner which fosters environmentally, economically, and socially healthy places to live.

Recommendation 8

AMO recommends that the statement of provincial interest in planning under section 2 of the *Planning Act* be amended.

Recommendation 9

AMO recommends the establishment of a comprehensive "umbrella" provincial policy statement which elaborates on the provincial interests expressed in a modified section 2 of the *Planning Act*.

Recommendation 10

AMO recommends that the whole concept of provincial policy statements be reviewed including their status in relation to the Association's proposed "umbrella" provincial policy statement.

ENDNOTES

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APPENDIX A - THE PROVINCIAL INTEREST IN PLANNING

For illustration; draft as proposed by the Regional Planning Commissioners

The Provincial Interest in Planning

Section 2 of the *Planing Act 1983* identifies provincial interests. Our experience with the current *Act* is that the provincial interest should be in some cases strengthened or enlarged, made more precise or clarified. Most important we believe the Province should have an interest in a comprehensive view of planning in Ontario. We believe some refinement is in order. Our suggested rewording for Section 2 is as follows (changes have been underlined):

Responsibility of Minister

2. The Minister in carrying out his responsibilities under this *Act*, will have regard to, among other matters, matters of provincial interest such as,

   (a) the protection of the natural environment (air, water, land);

   (b) the management of natural resources including the agricultural resource based for the long term benefit of the Province;

   (c) the protection of features of significant natural, architectural, scientific, historical, cultural or archaeological interest;

   (d) the supply, efficient use and conservation of energy;

   (e) the efficient provision of communication, servicing and transportation facilities which are the responsibility of the Province;

   (f) the equitable distribution of educational, health and other social facilities;

   (g) the health, safety, and welfare of the population;

   (h) the provision of adequate housing;

   (i) the economic well-being of the Province;

   (j) planning activities which transcend municipal boundaries;

   (k) the resolution of planning matters involving municipalities and other public bodies;

   (l) the provision of a fair and effective planning process;

   (m) a comprehensive strategy of planning in Ontario, dealing with the inter-relationships between environmental, economic and social matters.

APPENDIX B - POLICY STATEMENT ON GOALS FOR PLANNING IN ONTARIO

For illustration; draft as proposed by the Regional Planning Commissioners

Policy Statement on Goals for Planning in Ontario

1. Purpose

The purpose of this policy statement is to provide goals for Planning in Ontario which will be used by both the Province and the Municipalities as a framework for planning.

2. Interpretation

This policy statement supersedes all other policy statements.

In order to interpret this Policy Statement and to illustrate how this policy statement may be implemented, the Minister of Municipal Affairs may issue guidelines under the Planning Act 1994. Concurrent with the issuance of this policy statement the following policy statements are being reissued as guidelines: Floodplains, Minerals, Land Use Planning for Housing.

3. Background

To date policy statements issued under the *Planning Act 1983* have focused on single issues to the detriment of a holistic view and balanced perspective. The *Planning Act 1994* states that,

"The purpose of planning is to guide change in communities in a manner which fosters economically, socially and environmentally healthy places to live."

The responsibility for this is jointly shared by the Province and its constituent municipalities and planning boards.

The *Planning Act 1994* defines the Provincial Interest in planning. This policy statement elaborates on that interest by establishing goals for each interest and requirements for the approach to be taken in establishing objectives and policies to implement the goals.

4. Definitions

Goals
Objectives
Policy
etc.

5. Goals

In carrying out their responsibilities under the *Planning Act 1994*, *Environmental Assessment Act*, etc. the Province and the Municipalities shall have regard to the following goals:

5.1 To protect the natural environment (air, water, land) by:

- identifying all significant ecosystems;
- designating land and water for protection in policy plans;
- including policies in policy plans to protect and reduce the impact of change and development on air, water and land.

5.2 To manage the natural resources of the Province, e.g., forests, water, minerals, good agricultural land for the long term benefit of the province by:

- designating all significant natural resources in policy plans;
- including policies in policy plans to ensure significant natural resources are managed, reserved and made available for the use of future generations.

5.3 To protect significant natural, architectural, scientific, historical and archaeological features by:

- identifying and designating significant natural features such as wetlands, rivers, streams and their banks, wood lots and environmentally sensitive areas in policy plans;
- identifying and designating significant architectural features such as .....in policy plans;
- identifying and designating significant historical and cultural features as those designated under the *Ontario Heritage Act* in policy plans;
- identifying and designating significant archaeological features such as those associated with our aboriginal peoples, early settlement of the Province and industrial archaeology, in policy plans;
- including policies in policy plans to ensure such significant features are protected for as long as possible.

5.4 To ensure energy is conserved and used efficiently by:

• including policies in policy plans which address ways to minimize travel, increase the use of public transit, maximize the use of passive solar energy, and increase insulation standards.

5.5 To ensure communication, servicing (infrastructure?) and transportation facilities, which are or will be the responsibility of the Province, are delivered efficiently and are capable of expansion or provision to meet the needs of the future by:

• identifying and designating in policy plans all such facilities;

• including policies in policy plans to ensure sufficient land and right of way can be made available when required.

5.6 To ensure the equitable distribution of educational, health and other social facilities by:

• including policies in policy plans to relate the need for such facilities to the growth and changing age structure of the population;

• including policies in policy plans which will require all communities to provide for such facilities.

5.7 To resolve planning matters between municipalities and other public bodies by:

• including an acknowledgment in policy plans that the responsibility for resolving such conflicts rests with the Minister of Municipal Affairs.

5.8 To ensure the health and safety of the population by:

• including policies and as necessary designating land in policy plans for among other things,

- piped water which meets Ontario Drinking Water standards
- sanitary sewage treatment
- stormwater management
- garbage disposal
- snow disposal

• including policies in policy plans to ensure the safe operation in perpetuity of private water and sewage treatment systems.

5.9 To promote the economic well being of the Province by:

• designating land and including policies in policy plans.

5.10 To ensure a range of housing types and tenures in suitable locations is capable of being provided by:

• including policies in policy plans to define affordable housing;

• indicating how sufficient affordable housing will be provided in suitable locations;

• indicating how sufficient special needs housing will be provided in suitable locations.

5.11 To ensure the provision of a fair and effective planning process by:

• including policies in policy plans which specify how public consultation will be carried out to ensure adequate information is provided to the public, that everyone will be provided with a fair hearing, and that they are aware of their rights and responsibilities.

5.12 To establish a comprehensive strategy for planning in Ontario dealing with the inter-relationships between environmental, economic and social matters by:

• designating in the policy plan sufficient land for development;

• including policies in the policy plan to ensure its servicing and availability;

• designating in the policy plan all lands considered unsuitable for development;

• designating in the policy plan all lands required for the provision of infrastructure once adequate economic, social and environmental studies have been carried out.

6. Implementation

The Province and all municipalities shall have regard to this policy statement in carrying out their responsibilities under the *Planning Act 1994* (and any other relevant acts). Amendments to policy plans to implement this policy statement shall be

submitted to the Minister of Municipal Affairs no later than 2 years following the issuance of the policy statement.

This policy statement shall be revoked five years after its issuance unless it is reviewed and renewed in the form prescribed in the *Planning Act 1994*.

The Minister of Municipal Affairs may from time to time issue guidelines under the *Planning Act 1994* to assist in the interpretation of these goals.

APPENDIX C - ACKNOWLEDGMENTS

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